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December 13, 1989

The Honorable Manuel Pena, Jr.
Arizona State Senator
State Capitol - Senate Wing
Phoenix, Arizona 85007

Re: I89-106 (R89-120)

Dear Senator Pena:

You have requested an opinion concerning the power of school district governing boards to charge their students fees^{1/} for certain student supplies. You have asked: (1) whether the boards may charge students a fee for general supplies which appear to be a part of general maintenance and operation expenses of the schools; (2) the general guidelines by which the boards may charge student fees consistent with Arizona statutes; and (3) the consequences for a student's failure to pay the general supply fee.

We conclude that no statutory authority exists for school districts to charge for materials connected with the general operation and maintenance of their schools. Student fees may be charged only for non-required materials, courses or activities.

School boards have only the authority granted by statute, and that authority must be exercised in the manner permitted by statute. Campbell v. Harris, 131 Ariz. 109, 638 P.2d 1355 (App. 1981).

1. Your opinion request refers to fees for items such as toilet paper, paper towels, testing materials, video tapes and other general supplies as well as art, music, shop, drafting, mathematics and home economics supplies.

Each school district governing board has a general duty to maintain the schools it establishes. A.R.S. § 15-341(A)(2) requires that a governing board shall maintain the schools established by it for the attendance of each pupil for a period of not less than one hundred seventy-five school days per year. A.R.S. § 15-341(A)(5) provides that the board shall manage and control the school property within the district. A.R.S. § 15-341(A)(6) provides that the governing board shall acquire school furniture, apparatus, equipment, library books and supplies for the use of the schools, and A.R.S. § 15-341(A)(8) requires the board to furnish, repair and insure the school property of the district.

A.R.S. §§ 15-723 and -724 deal with what may or may not be charged for school materials. Section 15-723 provides as follows:

A. Free textbooks, subject matter materials and supplementary books shall be furnished in common schools and all state welfare institutions maintaining educational facilities, subject to § 15-727 [concerning proper care of school materials].

B. Governing boards shall furnish free required textbooks and related printed subject matter materials in the high schools, subject to § 15-727.

A.R.S. § 15-724 provides:

A. The governing board may include in its proposed school district budget finances required for the purchase of textbooks, subject matter materials and supplementary books for the use of registered high school pupils.

B. The governing board may charge a reasonable rental fee for the use of nonrequired textbooks, nonrelated subject matter materials and supplementary books by registered high school pupils.

A.R.S. § 15-728 provides that governing boards may sell high school textbooks at cost and A.R.S. § 15-727 permits the boards to charge pupils for costs of damaged or lost textbooks.

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Additionally, A.R.S. § § 15-824 and -825 permit school districts to charge tuition to nonresident district students. However, none of the above mentioned statutes nor the statutes prescribing the general powers of school boards, A.R.S. § § 15-341 and -342, provide boards the power to charge fees to students for the general maintenance or operating expenses of district schools. Therefore, we conclude that school boards may not charge such fees.²

Because we have concluded that school district governing boards may not charge general maintenance fees, we need not specify guidelines for charging the fees or the consequences for failure to pay such fees in response to your second and third questions.

Sincerely,



BOB CORBIN
Attorney General

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²To the extent that Opinion 187-114 may be read to allow charging for items that are connected with the general operation and maintenance of the schools, it is hereby modified.